

Message Text

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C O N F I D E N T I A L USUN 0703

E.O. 11652: GDS

TAGS: UN, TSPA

SUBJ: OUTER SPACE LEGAL SUBCOMMITTEE: DEFINITION
OF OUTER SPACE

1. SUMMARY: FRANCE AND ARGENTINA CALLED FOR ADOPTION
OF A DEFINITION OF OUTER SPACE DURING LEGAL SUBCOMMITTEE
DEBATES, AND THE SOVIET DELEGATION PRIVATELY REQUESTED
CLOSE US-SOVIET COOPERATION ON DEVELOPING A MUTUALLY
ACCEPTABLE DEFINITION BEFORE THE NEXT SESSION OF THE
LEGAL SUBCOMMITTEE. END SUMMARY.

2. DURING LEGAL SUBCOMMITTEE DEBATE ON AGENDA ITEM 5
ON DEFINITION OF OUTER SPACE, ONLY FRENCH AND ARGENTINE
DELEGATIONS SPOKE. THE FRENCH DEL CALLED FOR EARNEST
CONSIDERATION OF THIS ITEM BY THE SUBCOMITE AT ITS
EARLIEST OPPORTUNITY, STATING THAT INCREASING AEROSPACE
ACTIVITY WOULD SOON GIVE RISE TO URGENCY IN THE MATTER,
AND THAT SUCH QUESTIONS SHOULD BE RESOLVED BY THE
SUBCOMITE RATHER THAN LEAVING IT TO INDIVIDUAL NATIONS
TO ADOPT DIFFERENT DEFINITIONS OR TO A JUDGE TO DECIDE
THE QUESTION SHOULD IT BE RAISED IN SOME JURIDICAL FORUM.

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3. THE ARGENTINE DEL DELIVERED EXTENSIVE REMARKS IN SUPPORT OF THE SUGGESTION THAT THE SUBCOMITE TAKE UP THE MATTER OF OUTER SPACE DEFINITION AS SOON AS POSSIBLE. HE REFERRED TO THE PROSPECT OF GREATLY INCREASED USE OF AEROSPACE AND THE DESIRABILITY OF RESOLVING DEFINITIONAL QUESTIONS BEFORE ABANDONED OR INOPERATIVE OBJECTS IN SPACE OR ACCIDENTS RENDER THE PRESENT LACK OF DEFINITION A CRITICAL MATTER. HE SAID THE ALTHOUGH VON KARMANN'S WORK HAD BEEN INVALUABLE, AS WELL AS THE EFFORTS OF OTHERS TO DERIVE SOLUTIONS BASED IN THE PHYSICAL SCIENCES, EXPERIENCE HAS SHOWN THAT JURISTS -- "LEGAL SCIENTISTS" -- SHOULD GO AHEAD WITH THE WORK OF DEFINING SPACE BASED ON FUNCTIONAL AND JURIDICAL CONCEPTS RATHER THAN ON PHYSICAL AND TECHNICAL CONSIDERATIONS. ARGENTINE DEL'S MAIN CONCLUSION WAS THAT PHYSICAL OR TECHNICAL DEFINITIONS OF OUTER SPACE ATTEMPTED BY SCIENTISTS ARE NO LONGER USEFUL, AND THAT AS PRACTICAL MATTER DEFINITION SHOULD BE RELATED TO OUTER SPACE ACTIVITIES RATHER THAN TO PHYSICAL SCOPE OF THE AREA INVOLVED. INTERNATIONAL JURISTS SHOULD NOW ASSUME RESPONSIBILITY FOR WORKING OUT DEFINITION.

4. THE CHAIRMAN (WYZNER) WELCOMED THESE CONTRIBUTIONS AS EVIDENCE OF NEW INITIATIVE BY THE SUBCOMITE IN CONSIDERING AN AGENDA ITEM WHICH IT HAD NOT HAD TIME TO CONSIDER FOR THE PAST SEVERAL YEARS.

5. DURING BILATERAL CONSULTATIONS AT BEGINNING OF SUBCOMITE SESSION SOVIET DEL PIRADOV ASKED WHETHER USG HAD DEVELOPED A POSITION ON DEFINITION OF OUTER SPACE, INDICATING THAT USSR AND US DELS SHOULD BE VERY CAREFUL TO COORDINATE POSITIONS BEFORE ITEM WAS PUBLICLY DISCUSSED IN DETAIL. USDEL INDICATED THAT WE WOULD NOT BE MAKING A STATEMENT IN SUBCOMITE ON THIS SUBJECT, AND THAT WE FULLY AGREED THAT A COMMON APPROACH WAS DESIRABLE BEFORE THE SUBCOMITE BEGAN SUBSTANTIVE DISCUSSIONS.

6. DURING FINAL WEEK OF SUBCOMITE SESSION SOV DELOFF MAIORSKY APPROACHED USDEL TO REQUEST AGAIN THAT OUR TWO COUNTRIES MOVE QUICKLY TO WORK OUT A COMMON POSITION. IN RESPONSE TO REPEATED QUESTIONS, MAIORSKY CONSISTENTLY
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MAINTAINED THAT SOVS HAD SPENT MANY HOURS TRYING TO DECIDE WHAT THEY WOULD LIKE TO SEE AS A DEFINITION IF ONE PROVED NECESSARY, BUT SO FAR HAVE BEEN UNABLE TO DEVELOP AN ACCEPTABLE POSITION EVEN INTERNALLY. MAIORSKY STRONGLY EXPRESSED SOVIET CONCERN THAT SPACE POWER RESISTANCE TO ANY MOVEMENT ON DEFINITION QUESTION MIGHT ELICIT UNILATERAL ASSERTIONS BY OTHER COUNTRIES, INCLUDING THE POSSIBILITY OF TERRITORIAL CLAIMS SEVERAL HUNDRED OF

MILES HIGH, PLUS "ECONOMIC ZONES" ABOVE THAT. RESULT, HE SUGGESTED, COULD BE CLAIMS FOR PAYMENT FOR OVERFLIGHT THROUGH SUCH ZONES EVEN IF NO CHALLENGES WERE RAISED TO THE BASIC RIGHT OF SUCH PASSAGE. REFUSAL TO PAY SUCH CLAIMS COULD THEN PUT PRESSURE ON RIGHT OF OVERFLIGHT, AND A "VERY DIFFICULT SITUATION" COULD RESULT. USDEL AGREED THAT SUCH A SITUATION SHOULD BE AVOIDED AND THAT WE WOULD WELCOME ANY SOVIET IDEAS ON HOW AN ACCEPTABLE DEFINITION MIGHT BE FORMULATED.

7. BOTH DELS AGREED THAT WE MUST BE IN TOUCH ON THIS QUESTION DURING THE COURSE OF THIS YEAR.
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